

# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/282,614	03/31/1999	STEVEN MICHAEL FRENCH	AT9-98-713	8850
35525 7.	590 04/18/2003	•		
DUKE W. YEE CARSTENS, YEE & CAHØON, L.L.P. P.O. BOX 802334			EXAMINER	
			NGUYEN, DUSTIN	
DALLAS, TX	75380		ART UNIT	PAPER NUMBER
			2154	
			DATE MAILED: 04/18/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary    Summary			Application No.	Applicant(s)				
Dustin Nguyen  Dustin Nguyen  2154  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  THE MAILING DATE OF THIS COMMUNICATION.  If the period for reply secreted above is less than they (30) days, a reply within the statisticy minimum of tabity (30) days will be considered timely.  If the period for reply secreted above is less than they (30) days, a reply within the statisticy minimum of tabity (30) days will be considered timely.  If the period for reply secreted above is less than they (30) days, a reply within the statisticy minimum of tabity (30) days will be considered timely.  If the period for reply secreted they be statistically period will appear to the mailing date of this communication.  If the period for reply secreted above is less than there are the mailing date of this communication.  If the period for reply secreted above is less than the statistic propriets to the mailing date of this communication.  If the period for reply secreted above is less than the scanning and the statistic propriets to the statistic propriets that are statistic propriets the mailing date of this communication.  Application is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 9-12 and 23 isfare pending in the application.  4) Claim(s) 9-12 and 23 isfare rejected.  7) Claim(s) 2-12 and 23 isfare pending in the application.  4) Claim(s) 9-12 and 23 isfare rejected.  7) Claim(s) 2-12 and 23 isfare rejected to 3 claim for foreign reply to this Office action.  10) The drawning(s) filled on	Office Action Summers		09/282,614	FRENCH ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  THE MAILING DATE OF THIS COMMUNICATION.  The period for reply specified above is less than they (30) days, a reply within the statutory minimum of they (30) days will be considered timely.  If the period for reply specified above, the macroms statutory proved will appear to (4) MONTH'S from the mealing date of this communication.  If the period for reply specified above, the macroms statutory proved will appear to (4) MONTH'S from the mealing date of this communication.  Any reply received by the Office later than three months after the mailing date of this communication, world farmly field, may reply received by the Communication of the mailing date of this communication.  Any reply received by the Coffice later than three months after the mailing date of this communication, world farmly field, may reply received by the Coffice later than three months after the mailing date of this communication.  Any reply received by the Office later than three months after the mailing date of this communication.  Any reply received by the Coffice later than three months after the mailing date of this communication.  Status  Status  Status  Status  Status  A (2) Separation is FINAL.  2b) This action is non-final.  3) Is not this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) Separation is office and in the application.  4) Of the above claim(s) is after allowed.  6) Claim(s) Separation is defended to separation in the application.  5) Claim(s) Separation is defended to separation is defended		Office Action Summary	Examiner	Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALINE DATE OF THIS COMMUNICATION.  Estendages of time may be available under the provision of 37 CFR 1.13(a). In no event, however, may a reply be timely timed after SIX (6) MONTHS from the mailing date of this communication.  If the period for reply precified before the size than they composed is set to the middle of the communication.  If the period for reply precified from the mailing date of this communication.  Failure to reply within the set or extended period for reply with the statutory minimum of thirty (30) days will be considered timely.  Failure to reply within the set or extended period for reply with a provision of the provision of the provision of the provision and the set of the scommunication, even if timely filled, may reduce any semicipal provision to the semicipal provision of communication is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 9-12 and 23 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are objected to 9 the Examiner.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abovance. See 37 CFR 1.85(a).  11) The proposed drawing correction filed on is/are: a) accepted or b) objected to by the Examiner.  Friority under 35 U.S.C. § 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) Although the priority documents have been received.  2 Certified copies of the priority documents have been received in this National Stage applica								
HE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 3 CFR 1.38(a). In no event, however, may a reply be timely filed  If the period for reply specified above is less than thiny (30) days, a reply within the statutory minimum of thiny (30) days will be considered timely.  If the period for reply specified above is less than thiny (30) days, a reply within the statutory provided for reply specified above is less than thiny (30) days, a reply within the statutory provided for reply will be second for reply decided for the second for reply be second for reply decided for for seco	Period fo	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
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### **DETAILED ACTION**

1. Claims 9-12 and 23 are presented for consideration.

### **Double Patenting**

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 9-12 and 13 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7-17 of US Patent No 6442685 [hereinafter '685 patent]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

As per claims 9, 10 and 23, claims 7 and 8 of the '685 patent contains the subject matter claimed in the instant application. The patent and the application are claiming common subject matter, as follows:

dynamically modifying a first set of server names for a first server ...

dynamically modifying a second set of server names for a second server ...

determining that the first server ...

dynamically modifying the first set of server names ...

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The claims 7 and 8 of '685 patent does not contain the method steps in the same order. However, it would have been an obvious modification for one of ordinary skill in the art at the time the invention was made to perform the steps in the same order as claimed because doing so would have enabled the method to reconfigure server to take non-function server off-line as set forth in '685 patent.

As per claims 11 and 12, claims 9 and 10 of the '685 patent contains the subject matter claimed in the instant application. The patent and the application are claiming common subject matter, as follows:

dynamically modifying a first set of server names for a first server ...

dynamically modifying a second set of server names for a second server ...

determining that the first server ...

dynamically modifying the first set of server names ...

dynamically modifying a second set of server names ...

The claims 9 and 10 of '685 patent does not contain the method steps in the same order. However, it would have been an obvious modification for one of ordinary skill in the art at the time the invention was made to perform the steps in the same order as claimed because doing so would have enabled the method to reconfigure server to take server on-line for service as set forth in '685 patent.

## Claim Objections

4. Claim 23 is objected to because of the following informalities: Claim 23 repeats the same method steps as claimed in claim 9. Appropriate correction is required.

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# Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claims 9-12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kandasamy [ US Patent No 6219799 ], in view of Chrabaszcz [ US Patent No 6134673 ].
- 7. As per claim 9, Kandasamy discloses the invention substantially as claimed including a method for reconfiguring servers in a distributed data processing system, the method comprising the computer-implemented steps of:

dynamically modifying a first set of server names for a first server by adding a first server name to the first set of server names [ Abstract; col 2, lines 27-32 and 59-67 ];

dynamically modifying a second set of server names for a second server by adding a second server name to the second set of server names [ Abstract; col 2, lines 27-32 and 59-67 ];

determining that the first server requires reconfiguration [ Abstract; and col 3, lines 15-16 ];

dynamically modifying the first set of server names by adding the second server name to the first set of server names [ col 3, lines 5-8 and 15-23; claim 1 ].

Kandasamy does not disclose

the first server responds to requests directed to the first set of server names; and the second server responds to requests directed to the second set of server names. Application/Control Number: 09/282,614

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Chrabaszcz discloses

the first server responds to requests directed to the first set of server names [ col 6, lines 16-18 and 39-56 ]; and

the second server responds to requests directed to the second set of server names [ col 6, lines 16-18 and 39-56 ].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Kandasamy and Chrabaszcz because Chrabaszcz's teaching would provide multiple services from different servers for clients which increases scalability.

- 8. As per claim 10, Kandasamy discloses the first server is reconfigured in response to a determination that the second server requires fail-over support by the first server [ Abstract; claim 1 ].
- 9. As per claim 11, it is rejected for similar reasons as stated in claim 9. Furthermore, Kandasamy discloses the steps of dynamically modifying the first set of server names by removing the second server name from the first set of server names [ Abstract; col 3, lines 23-30 ].
- 10. As per claim 12, Kandasamy discloses the second server name is removed prior to connecting the second server to a network in the distributed data processing system [ col 3, lines 28-30 ].

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11. As per claim 23, it is rejected for similar reasons as stated above in claim 1.

12. Applicant's arguments with respect to claims 9-12 and 23 have been considered but are

moot in view of the new ground(s) of rejection.

13. A shortened statutory period for response to this action is set to expire 3 (three)

months and 0 (zero) days from the mail date of this letter. Failure to respond within the

period for response will result in ABANDONMENT of the application (see 35 U.S.C 133,

M.P.E.P 710.02, 710.02(b)).

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on Monday – Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (703) 308-7678.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directly to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

ZARNI MAUNG

RIMARY EXAMINER